

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-26 are pending in the application. Several claims have been amended to better define the claimed invention. New claim 26 readable on the elected species/invention have been added to provide Applicants with the scope of protection to which they are believed entitled. The amended/new claims find solid support in the original specification and drawings, especially FIGs. 1, 4b and the corresponding text, especially paragraph 0071 of the published application. No new matter has been introduced through the foregoing amendments.

The Office's maintained rejections of all claims are noted.

1. The rejections are respectfully traversed for the reasons detailed in the previous Amendments, which are incorporated by reference herein.

2. The Office's response to Applicants' arguments are also noted. Applicants respectfully disagree with at least the Examiner's allegation that the 1xEV-DO network controller inherently communicates with the 1X mobile switching center.

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis added)

Applicants respectfully maintain the previously stated position that the Office has failed to provide basis in fact and/or technical reasoning to support the allegation of inherency.

The Office's position in paragraph 2 of the Office Action, i.e., it would be obvious to a person of ordinary skill in the art that the BSC is the one controller that is connected to the MSC, is not a proper argument in an anticipatory rejection under 35 U.S.C. 102(e).

3. The Office's position in paragraph 3 of the Office Action, i.e., is also improper in that it does not address Applicants' argument reproduced herein below:

Further, Applicants respectfully submit that that the applied art of record does not teach or suggest the claimed messages between the 1xEV-DO access network controller and the 1X mobile switching center. Such cross-standard communication is neither disclosed, taught nor suggested in the art. It is the ordinary skill and knowledge in the art that although a terminal/system, such as the WCD of *Turner*, might be hybrid, its 1X part and 1xEV-DO part are still separately operable. *See* also the Background art section in the instant application, at page 2, line 35. Therefore, in the absence of *evidence* to the contrary, a person of ordinary skill in the art would conclude that the *Turner* WCD/system, like the conventional hybrid one, must have separately operable 1xEV-DO and 1X parts which are not configured to communicate with one another. Accordingly, the person of ordinary skill in the art would understand that the art in general and *Turner* in particular do not teach or suggest the claimed feature where the 1xEV-DO and 1X parts are communicated with each other.

It is acknowledged that *Turner*, as stated in the Office Action, discloses wireless communication on different types of communication networks. However, the reference neither teaches nor suggests that an element of one communication network (e.g., 1xEV-DO access network controller) is communicable with another element of another communication network (e.g., 1X mobile switching center). As discussed in the Background section of the instant application, the two systems, i.e., 1xEV-DO and 1X, operate separately and there is no evidence or suggestion in *Turner* to the contrary. As such, Applicants respectfully submit that *Turner* as applied in the Office Action does not teach or suggest the claim feature at issue.

4. As to the claim feature that “a 1xEV-DO access network controller for... detecting a call drop...” being argued in the previous Amendment, Applicants note that the Office has not properly responded why the argument is not persuasive. Clarification is respectfully requested.

Applicants respectfully maintain that *Turner* does not teach or suggest the claim feature because the *Turner* element that detects call drops is the terminal, i.e., WCD, rather than the 1xEV-DO access network controller as now recited in independent claims 1 and 12. *See, e.g., Turner* at 726 in FIG. 7 and paragraph 0103 lines 3-4.

5. As to the claim feature that the 1xEV-DO access network controller and the 1X mobile switching center communicate with one another when a call drop is detected, as being argued in the previous Amendment, Applicants note that the Office has not properly responded why the argument is not persuasive. Clarification is respectfully requested.

Applicants respectfully maintain that *Turner* does not teach or suggest the claim feature

because, based on FIG. 7 of *Turner*, no such communication occurs when a call drop is detected. *See Turner* at 730 in FIG. 7 and paragraph 0125 onwards.

6. As to the claim feature that the information about the 1xEV-DO system's recognition that the terminal has been switched to the 1X mode is recorded, as being argued in the previous Amendment, Applicants note that the Office Action at page 5, lines 1-2 simply repeats the claim language *without* citing any section of *Turner* where the claim feature might be found or suggested.

The Office is kindly requested to furnish the citation of relevant teachings of *Turner*, if any, so that the rejection can be properly understood and responded to. The Examiner is thanked in advance for cooperation.

Unless and until proved otherwise by the Office, Applicants respectfully maintain that *Turner* does not teach or suggest the claim feature and, hence, fails to achieve the advantages of embodiments of the claimed invention, i.e., the user can now know the reason for call dropping. *See*, e.g., the original specification at the paragraph bridging pages 21-22, and page 22, lines 11-23.

The independent claims are patentable over the art *as applied in the Office Action* for any of the reasons detailed above.

The dependent claims, including any new claim(s), are considered patentable at least for the reason(s) advanced with respect to the respective independent claim(s).

7. As to claim 24, the Office Action (page 9) has cited virtually the entire disclosure of *Turner* against a single claim limitation, i.e., “the 1xEV-DO access network controller and the 1X mobile switching center are communicable with one another only during the inquiry whether or not voice signals or low-rate data are received in the hybrid access terminal, and not during normal voice signal or data transmission in the 1X mode or the 1xEV-DO mode,” which makes it very difficult, if at all possible, to understand, and hence respond to, the rejection.

The Office is kindly requested to cite the exact location(s) of *Turner* where the claim feature

can be found or suggested so that meaningful response can be presented.

8. As to new claim 25, Applicants respectfully submit that the applied art of record does not teach or suggest that the 1xEV-DO access network controller refers to the stored recognition information when stopping a multimedia data transmission service to be provided to the hybrid access terminal, or making communication with the hybrid access terminal.

Since the Office has not specified how *Turner* teaches or suggests the claimed stored recognition information (see the discussion at section 6 *supra*), the reference also fails to teach or suggest that the stored recognition information is referred to by the 1xEV-DO access network controller.

9. As to new claim 26, note the discussion of claim 24 *supra*.

Accordingly, all claims in the present application are now in condition for allowance or, otherwise, in appealable form.

Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP

/Yoon S. Ham/

Yoon S. Ham
Registration No. 45,307

Serial No. 10/541,241

USPTO Customer No. 22429
1700 Diagonal Road, Suite 310
Alexandria, VA 22314
Direct : (703) 535-7340
Facsimile: (703) 518-5499
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YSH/KL/jr